

The Rutland Court Riots of 1786

Gregory Sanford, Vermont State Archivist

May 25, 1999

The New York Times of May 16th reported on our growing disenchantment with lawyers. The article enumerated changes in the practice and scope of law which have contributed to current negative perceptions. One expert noted that twenty years ago a majority of the population had a positive view of lawyers and their trade. Today that figure has declined to 14%.<sup>1</sup>

This suggested, at least to me, that the popularity of lawyers, like radioactivity, could be measured in half-lives. This would allow a form of carbon dating: if the popularity of lawyers declined by 50% every twenty years, it would be possible to determine when those in the legal trades were universally celebrated. Under this theory one would expect 18th century Vermonters to almost uniformly cherish lawyers.

Alas, my theory was undone when I cast my eye upon the Rutland County of the 1780's. A 1784 gathering in Wells, for example, inspired the following poetic musings:

Then lawyers from the courts expel,  
Cancel our debts and all is well--

But should they finally neglect  
To take the action we direct,  
Still fond of their own power and wisdom,  
We'll find effectual means to twist'em.<sup>2</sup>

Whatever this doggerel reveals about the state of poetry in the Republic of Vermont, it does suggest that at least some 18th century Vermonters had a rather dim view of lawyers. This was more than a local, Rutland grievance. In August, 1786, for example, Gov. Thomas Chittenden described one Vermont faction as crying "kill the lawyers" and offered his own warning against "flinging ourselves into the hands of...lawyers and pettifoggers."<sup>3</sup>

Throughout the 1780's, and beyond, Vermonters engaged in fierce debates over the role of lawyers and law. These debates were played out across the new nation and in 1786 ignited court riots in Windsor and Rutland.<sup>4</sup>

But, I get ahead of myself. The 1780's opened with great promise and a sense of limitless opportunity. In October, 1781 Lord Cornwallis surrendered at Yorktown and the Revolutionary War ground to a halt. The 1783 Treaty of Paris, ending the War, was followed, in 1784, by a series of armed clashes between Vermonters and Yorkers that ended New York's efforts to reclaim Vermont by force.

Vermont was not yet a state, but it was no longer a war zone. Internal and external conflicts had left Vermont largely unsettled until the 1780's; now new settlers poured into the area. Between the end of the Revolutionary War in 1783 and statehood in 1791, 127 towns either began settlement or achieved organization as town governments. Even exiled loyalists and Yorkers whose property had been confiscated and sold were now allowed back under a Redemption Act passed in 1780.<sup>5</sup>

In October, 1783 Governor Thomas Chittenden proclaimed a day of thanksgiving to acknowledge the "abundant Goodness of our God" who had protected Vermonters "from a powerful Enemy, when we were few in Number, and destitute of human Aid"...[and] who had "preserved[d] so much Unity and peace among us..."<sup>6</sup> God's blessings did seem to shine on Vermont; by 1790, 85,000 people had settled here.

And yet, there were signs that unity and peace had not truly settled upon the Green Mountains. There were tensions between those who fought for Vermont independence and later arrivals, including the returning loyalists. This was more than a Vermonter - flatlander conflict; it was a clash of ideals and allegiances that threatened the revolutionary republicanism of Vermont's founders. Revolutionary republicanism, in turn, rested upon a

foundation of broad based land ownership; a foundation weakened by disputed land titles and competing beliefs about the nature of property, the right to the fruits of one's own labor, and the legitimate expression of civic virtue. Intertwined in these tensions were questions about the sanctity of contracts and the obligations of creditors and debtors. Equitable resolution of these social tensions became a test of law and government and a test of wills among those who sought to control and shape government. Contests between law and revolutionary ideals raised questions about the relationships between citizens and their government. But again, I get ahead of myself.

The point is, once external threats to Vermont's existence diminished, the common goal of self-rule could no longer unify competing interests. By 1786 "freedom and unity" was more an oxymoron than a state motto.<sup>7</sup>

On August 15, 1786 two hundred farmers, "manifesting a spirited resentment," gathered in Rutland as the Supreme Court deliberated debtor cases. Such cases, and the legal costs associated with them, inspired references to lawyers as "pickpockets" and "banditti."

Though the *Vermont Gazette* reported that "nothing of a riotous or unlawful nature took place," lawyers and the judiciary were warned to "Take notice how you impose upon

those who have passed thro' the wilderness and endured fire, famine and the sword towards obtaining their own rights and the liberties of mankind."<sup>8</sup>

Two months later, in early October, angry mobs harassed surveyors trying to lay out town lines and lots in the Upper Coos (our Northeast Kingdom). The surveyors worked for the proprietors who held title to the land under Vermont charters. The opposing mobs included settlers whose titles were clouded by earlier, inaccurate surveys and squatters facing the loss of their land and labor.<sup>9</sup>

Two weeks later in Windsor, thirty men, armed with "guns, bayonets, swords, clubs, fifes and other warlike instruments" attempted to keep the Court of Common Pleas from opening. From October 31st until November 17th large mobs clashed with deputies of the Windsor County sheriff and state's attorney. Only the arrival of six hundred Vermont militia quieted the riots.<sup>10</sup>

No sooner did the Windsor court riot sputter to a close then a new riot broke out in Rutland when the county court convened on November 21st.<sup>11</sup> A "considerable number" of citizens, armed with bludgeons, petitioned the court to adjourn without day. When the judges refused, Col Thomas Lee of Rutland, backed by one hundred men, entered the courthouse and "in a most insolent and riotous manner began

to harangue and threaten the court." When the judges sought to adjourn to the following day the mob held them and the sheriff prisoner. The mob then further armed itself and repeated its demand that the court adjourn without day.

The judges refused, noting "that this court would not wish to try any causes at this term, but such as, in the opinion of the court, are necessary to preserve the peace, happiness and dignity of this county in particular, and the constitution and state of Vermont in general."

The mob, self-styled as Regulators, responded by seizing the court house and calling for reinforcements. On the following day, however, Vermont militia under Col. Isaac Clark arrived. The mob, now numbering around 150, abandoned the courthouse but remained nearby. The court re-convened and several of the mob leaders were arrested. The militia then attacked Roswell Post's house where about thirty insurgents had gathered. The rioters made "considerable resistance" before surrendering.

On the 23rd the mob leaders were arraigned. Among them was Jonathan Fassett, Pittsford town representative. Like their Windsor counterparts the rioters were fined, assessed costs, and required to post peace bonds. The highest fine and bond were assessed against Rep. Fassett

and in February he was expelled from the General Assembly for exciting the mob "to mutiny and riot & sedition against the Laws & government of this State."<sup>12</sup>

That was in the future; meanwhile, the Rutland riot was not quite over. On Nov. 25th the militia was thanked and discharged. They left Rutland the following day, only to be immediately recalled when 200 rioters gathered at Col. James Mead's house. These Regulators were responding to the rumored mistreatment of their jailed leaders. Eventually convinced that the rumor was false, many of the Regulators crossed over to join the militia. The crisis now passed, the militia was again disbanded on the 27th.

We, from the perspective of 1999, apply our own societal connotations to mobs, riots and violence. We carry images of exploded court buildings and compliantly approach our judiciary through metal detectors and personal searches. This is true even in Vermont where a court riot often means John McClaughry and a wordprocessor.

The Rutland Regulators of 1786 applied a whole different set of connotations to their actions.<sup>13</sup> To them a court riot was an extra-legal, but legitimate, expression of their civic virtue. Their goal was neither the overthrow of government nor the violent abrogation of their contractual obligations. Rather they were seeking to

correct and instruct a government they perceived to be unresponsive. Mob expression was not revolution, it was regulation. They did not describe themselves as revolutionaries, they were regulators.

As such, they saw themselves part of a tradition with English antecedents and with recent expressions ranging from the Boston Tea Party to the Bennington Mob of Ethan Allen and Thomas Chittenden.

*Mobile Vulgus*, mobs, were guided by broadly understood expectations (though different expectations may have been applied to urban and rural mobs). Redress to grievances should first be attempted through existing government structures. It was recognized, however, that fundamental human selfishness encouraged government officials to expand their authority at the expense of liberty. Then government became corrupt; corruption being broadly defined as pursuing private interests at public cost.

Faced with an unresponsive or corrupt government, virtuous citizens were obliged to act. Collective expression might first be formed through local conventions and meetings, where specific grievances could be enumerated and confirmed. Subsequent mob action was directed at those charged with implementing the offending policy. This often

meant the courts, but could include surveyors, justices of the peace, or tax collectors.

Mob violence should be restrained and not exceed legal penalties. Legal punishments, for example, included whippings and early Vermont mobs occasionally applied the lash to offending Yorker officials. Since laws did not embrace tarring and feathering, nor should mobs. When violence did occur, it was often against property, such as the burning or dismantling of Yorker settlements. Indeed, one of the striking things about 18th century mob actions is that violence was more likely to be initiated by government, not the mobs. Violent official responses only further undermined a government's legitimacy. The Westminster Massacre of 1775 is a case in point; when the official representatives of New York fired on the court rioters they opened the door to revolution rather than regulation.

This was the framework in which the Rutland Regulators moved. They had several specific grievances. The yeoman farmers of Rutland County had entered into debt to purchase and clear their lands. The post-Revolution depression and the absence of specie complicated their ability to meet their contractual obligations. Added to this was a heavily layered and expensive judicial and enforcement system. As

Governor Chittenden noted in his August, 1786 address, "Law suits are become so numerous that there is hardly any money sufficient to pay for entering the actions, not to mention the debts or lawyers and officer fees..." He estimated "that the expence of law suits for the two years past, has been nearly equal to that of any two years of the war." Chittenden recommended a tax on lawsuits to pay the costs of government and curtail the filing of suits.<sup>14</sup>

The farmers who confronted the Supreme Court in August appeared to have already confirmed their grievances in town meetings, as evidenced by newspaper reports specifying that they represented ten county towns. To coordinate town efforts the farmers then called for a trans-local, county convention to be held in Middletown in September.<sup>15</sup> Keeping within tradition, after the county convention, eight of the towns submitted petitions to the General Assembly enumerating their grievances against the cost and structure of the legal system and offering specific remedies. In addition to reducing court fees and lawyer's charges, the petitioners asked to be allowed to pay their debts, in the absence of specie, with "beaf pork butter Cheese flax grane or Neat Cattle."<sup>16</sup>

They asserted they were "good people...[who had] suffered much in their property..." under the present

system.<sup>17</sup> Without remedy they would lose their farms and become tenants and renters. Since republicanism rested upon freehold farmers the very core of the American and Vermont revolutions was threatened.

When the General Assembly, which met in October in Rutland, adjourned without, in the farmers' eyes, adequately addressing their grievances, mob action became necessary. Even then the mob offered one last petition before seizing the court. They acted to save their farms, and their revolution.

In doing so they were following in the proud tradition of Ethan Allen and the Green Mountain Boys. Their ties to that tradition were strengthened by recruiting Jonathan Fasset who had served in the vanguard of the Vermont revolution.

And yet they failed. Rather than celebrated as keepers of the true republican faith they were castigated as "malcontents," and "men of low character, who most probably have been misguided by the base insinuations of a few pestilent demagogues."<sup>18</sup>

So, what happened? Why, in a state whose creation mythology rests upon the legitimacy of mob action, did the Rutland Regulators disappear into the footnotes of texts celebrating the Green Mountain Boys? Well, timing, as they

say, is everything. What the Rutland Regulators could not know was that they were stranded in the littoral zone between the ebbing tide of revolution and a government increasingly shored up by legal precedent and tradition.

The old Revolutionary leaders, like Chittenden, were now the government. No matter how sympathetic they were to the distressed settlers, they could not support continuing unrest that might undo their work and further alienate the new American states; New York, after all, remained a threat and Vermont needed allies among states which were confronting their own mobs.

That many of Vermont's revolutionary leaders remained sympathetic to the settlers is clear from their actions and statements.<sup>19</sup> They not only fought to address the farmer's grievances within the existing structure of government, they also meted out relatively mild punishments (fines) to the rioters. They subsequently sought to mitigate even those punishments.

Ironically the best indication that they still saw the legitimacy of mobs, at least mobs in other states, came in their responses to Shays Rebellion which broke out a month after the Rutland affair.

Thomas Chittenden, while publicly distancing himself from the Shaysites, warned Massachusetts that "whenever

people were oppressed they will mob" and said he did not think it "the duty of this state to be hauling them [the Massachusetts Regulators] away to the halter." Never one to mince words, Ethan Allen stormed that "those who held the reins of government in Massachusetts were a pack of Damned Rascals and there [is] no virtue among them."<sup>20</sup>

Vermont's revolutionary leaders felt that had preserved republican virtue through the government they created. Unbound by legal tradition, and operating without lawyers, they had fashioned a pragmatic and flexible government. That government was based on a republican ideal of a strong unicameral, community-based legislature, mildly checked by weak judicial and executive branches. Their government readily responded to the changing needs of the yeoman farmers. The General Assembly routinely suspended writs of execution, ordered new trials, imposed statewide prohibitions against trials involving title to land, and otherwise stomped on judicial prerogatives. In the early 1780's it had passed a general tender act providing temporary relief to debtors by allowing payment in goods rather than specie.<sup>21</sup> To balance the efforts of returning loyalists and absentee landholders to reclaim their land, the General Assembly recognized that the

current settlers were entitled to the value of any improvements they had made to the land.<sup>22</sup>

Chittenden's freedom to take the part of the embattled settlers was increasingly constrained by an emerging and competing leadership. Led by lawyers such as Nathaniel Chipman and Isaac Tichenor, these men had a greater distrust of the yeoman farmers and sought to restore political leadership to men of property, breeding, and formal knowledge. They challenged the social policies of the early leaders. Most importantly, they wanted to substitute the rule of law for the elastic republican idealism of the government. There would be no place for extra legal mobs.<sup>23</sup>

By 1784 these two factions were locked in battle over the control of government and the shape of post-Revolutionary Vermont. If you want a good encapsulation of these battles, read the deliberations of the 1785 Council of Censors.<sup>24</sup> The fault lines between the factions can also be discerned by looking at the 1784 fight over a new betterment act and the 1786 fight over a new general tender act.

The new betterment act would have reaffirmed the settlers' rights to the value of the improvements they made on land now being reclaimed by returning loyalists. The

old revolutionaries argued, "if the strict rules of law be attended to, such persons [who improved the land] will be turned off from their possessions made at great labor and expense, and others, who have neglected both the defense and settlement of the land will unjustly enjoy the benefits of their labors..."<sup>25</sup>

Nathaniel Chipman was appalled. Didn't the revolutionaries understand that common law and legal tradition "makes every man a trespasser who enters on the land of another without license"? This proposed Betterment Act "would compell the legal owner to pay [the trespasser] bounty for his trespass."<sup>26</sup> The lawyer faction argued that loyalists should resume title to their confiscated lands without payment.

When the revolutionaries offered a general tender act so debt ridden farmers could make payment in cattle or other personal property, Chipman again blanched. He countered with a specific tender act to "compel the fulfillment of contracts according to the intent of the parties." Such an act he asserted was more "agreeable to the standards of unerring rectitude than altering the voluntary contract made by parties and obliging persons to accept...articles of less value than was originally agreed upon."<sup>27</sup>

If Chipman was not above expressing contempt for the bumpkins who had been running the place for the last twenty years, some of the revolutionaries were not reluctant to return fire. Matthew Lyon, who was sort of like Bernie Sanders with an attitude, felt compelled to publish an article entitled, "Twelve Reasons Against a Free People Employing Practitioners in the Law as Legislators." Demands to rigidly adhere to common law and legal traditions confirmed, to Lyon, that the lawyers wanted to force freeholder farmers into tenancy. "The rudiments of their professional education," opined Mad Matt, "leads them to be conversant with the world in the feudal state of things, and to pore over the transactions of the time of vassalage, when English lords transferred the tillers of the ground with the land they tilled." Lawyers, he continued, "are early taught to revere the opinions of and look up to the ancient British judges...and suck their principles from the very poisonous breast of monarchy itself."<sup>28</sup>

And so, back and forth across the political landscape the two factions fought. Neither able to impose its will, they continually had to compromise their ideals, training, and experience in order to govern. It was their 1786

compromise on the tender act that ignited the Rutland Regulators.

This was not just a Vermont fight. It was a key battle of the post-Revolutionary period. The leaders of the new nation found themselves caught in a paradox; were they to view lawyers and the courts as instruments of persecution or of protection?<sup>29</sup>

Which leads me back to the *Times* article of May 16th. While only 14% of the population has a positive view of lawyers, we at the same time celebrate Thurgood Marshall and the lawyers who fought segregation through the courts; make a bestseller and movie out Jonathan Harr's A Civil Action which details how a lawyer fought for the rights of citizens harmed by industrial pollution; and otherwise use the legal profession and courts to protect our rights against government and industry.<sup>30</sup>

"The Revolutionary Era," as one historian has noted, "is one of the most exciting periods in the American past, a time of innovation and risk taking in political theory and practice..."<sup>31</sup> But history, and the process of self-government, is not a series of discrete eras or events; it is an unfolding process, lacking neat beginnings and ends. We, as much as the Rutland Regulators, are part of that process. Opinion polls on the legal profession, in truth,

are a measure of how well we have resolved our own  
paradoxical view of laws and lawyers.

---

<sup>1</sup> John Tierney, *New York Times*, May 13, 1999, p. 28.

<sup>2</sup> E.P. Walton, ed., Records of the Council of Safety and Governor and Council 8 vols. (Montpelier, VT: State of Vermont, 1873-80) Vol. III, pp 358-359.

3. Thomas Chittenden, "Thanksgiving For Providential Aid in the Revolutionary War and the Preservation of this State From the Machination of Designing Men," in John A. Williams, ed., The Public Papers of Governor Thomas Chittenden, 1778-89, 1790-97 State Papers of Vermont, Vol. XVII, pp. 614-16.

<sup>4</sup> For an understanding of the national environment see Alfred F. Young, ed., The American Revolution: Explorations in the History of American Radicalism (DeKalb, Ill: Northern Illinois University Press, 1976); Alfred F. Young, ed., Beyond the American Revolution: Explorations in the History of American Radicalism (DeKalb, Ill: Northern Illinois University Press, 1993); Pauline Maier, From Resistance to Revolution: Colonial Radicals and the Development of American Opposition to Britain, 1765-1776 (New York: Alfred A. Knopf, 1972); Jack P. Greene, ed., The Reinterpretation of the American Revolution, 1763-1789 (New York: Harper & Row, 1968); Edward A. Countryman, The American Revolution (New York: Hill and Wanf, 1985); and Edward A. Countryman, A People in Revolution, the American Revolution and Political Society in New York, 1760-1790 (Baltimore: The Johns Hopkins University press, 1981). For more specific reference to Vermont's struggle for independence and for post-Revolutionary debates see, Peter Onuf, The Origins of the Federal Republic: Jurisdictional Controversies in the United States, 1775-1787 (Philadelphia: University of Pennsylvania Press, 1983); Michael Bellesiles, Revolutionary Outlaws: Ethan Allen and the Struggle for Independence on the Early American Frontier (Charlottesville: University Press of Virginia, 1993); Frank Smallwood, Thomas Chittenden, Vermont's First Statesman (Shelburne, VT: The New England Press, 1997); Aleine Austin, Matthew Lyon: "New Man" of the Democratic Revolution, 1749-1822 (University Park, PA: Pennsylvania State University Press, 1981) and "Vermont Politic in the 1780's: Emergence of Rival Leadership." *Vermont History* 42 (1974): 140-54; and Randolph A. Roth, The Democratic Dilemma: Religion, Reform, and the Social Order in the Connecticut River Valley of Vermont, 1791-1850 (Cambridge: Cambridge University Press, 1987), see chapter one. Narratives of the court riot can be found in Walter Crockett, Vermont: The Green Mountain State 5 vols (New York: Century History, 1921), see vol/ II, pp. 408-17 and Benjamin Hall, History of Eastern Vermont, from its earliest settlement to the close of the eighteenth century (New York: D. Appleton, 1858), pp. 547-51.

For compilations of Vermont records from the time period, see E.P. Walton, ed., Records of the Council of Safety and Governor and Council 8 vols. (Montpelier, VT: State of Vermont, 1873-80); William Slade, Vermont State Papers (Middlebury, VT: J.W. Copeland, 1823); Paul Gillies and Gregory Sanford, eds., Records of the Council of Censors (Montpelier, VT: State of Vermont, 1991); and The State Papers of Vermont Series 22 vols. (Montpelier, VT: State of Vermont, 1918-91).

<sup>5</sup> "An Act to Repeal Certain Acts Herein After Described," passed November 8, 1780 and "An Act to Prevent the Return to this State of

---

Certain Persons Therein Named, and Others, Who Have Left This State. or Either of the United States, and Joined the Enemies Thereof," passed February 26, 1779 found in Allan Soule, ed., Laws of Vermont, 1777-80. State Papers of Vermont, Vol. XII, pp., 221 and 125-26. The Vermont General Assembly passed numerous acts pardoning individual enemies of the state and restoring their property. See, for example, "An Act Granting a Pardon to Timothy Church," passed February 21, 1783 and "An Act Pardoning Charles Phelps, Esq. of Marlborough in the county of Windham, and restoring to him all his estate real and personal." passed October 26, 1784, found in John A. Williams, Laws of Vermont, 1781-84 State Papers of Vermont, Vol. XIII, pp 175 and 285-86.

<sup>6</sup> Thomas Chittenden, "Thanksgiving For Providential Aid in the Revolutionary War, and Preservation of this State From the Machinations of Designing men, &C," in Williams, The Public Papers of Governor Thomas Chittenden, pp. 614-16.

<sup>7</sup> Daniel Chipman wrote "...after the close of the war, after the external pressure had been removed, the people manifested a different spirit. They had persuaded themselves that they had been cruelly oppressed by the tyranny of the British government, and that if they could achieve their independence, their condition would be entirely changed....By this disappointment, the minds of the people were soured. attributing all their distress to the new government, and not having obtained a clear understanding of the principles on which they rested, felt that they had a right to rise in opposition to them. And in this State, and some others, great numbers were in arms, to overthrow the governments which they had instituted." Daniel Chipman, A Memoir of Thomas Chittenden (Middlebury, VT: for the author, 1849). pp. 199-200.

<sup>8</sup> Governor and Council, Vol III, p. 362.

<sup>9</sup> "Journal of Eben W. Judd, Survey of the Upper Coos, 1786," manuscript journal in Volume 20, Papers of the Surveyors General of the State of Vermont, Vermont State Archives, entries for October 9, 13, and 14, 1786.

<sup>10</sup> Hall, Eastern Vermont, pp.548-49.

<sup>11</sup> The following account of the Rutland riot is largely drawn from Hall, Eastern Vermont, pp 551-52; Governor and Council, Vol 3, pp. 366-70; and Crockett, Vermont, Vol. II, pp. 414-16. See also, Smallwood, Chittenden, pp. 148-52.

<sup>12</sup> Complaint of Gideon Brownson in regards to the seditious and riotous conduct of Jonathan Fassett, Manuscript Vermont State Papers, Vol. 17, p. 292, Vermont State Archives. Rawson Myrick, ed., Journals and proceedings of the General Assembly of the State of Vermont, 1784-87 State Papers of Vermont, Vol. III. pp 299-300.

<sup>13</sup> Information on mob actions is largely drawn from Maier, From Resistance to Revolution; Edward Countryman, "Out of the Bounds of Law": Northern Land Rioters in the Eighteenth Century," in Young, The American Revolution; and Alan Taylor, "Agrarian Independence: Northern Land Rioters after the Revolution," in Young, Beyond the American Revolution.

<sup>14</sup> Thomas Chittenden, "Address to the Freeman of Vermont," circa August 28, 1786, in Williams, The Public Papers of Governor Thomas Chittenden pp. 660-63.

<sup>15</sup> The Vermont Gazette Extraordinary, August 31, 1786 reported that on August 15th, "200 gentlemen" gathered in Rutland and "there was a representation of ten towns in that county, manifesting a spirited resentment: that so many of the good subjects of this State were

---

harrassed and confused, and put to extreme cost by those unhappy members of society [lawyers]." The same report noted the call for a Rutland County convention , to meet in Middletown on September 26th. The *Gazette* article is reproduced in Governor and Council, Vol. III, pp. 361-62.

<sup>16</sup> "Petition of the Town of Pittsford to the General Assembly," October 11, 1786 in Edward A. Hoyt, General Petitions to the General Assembly, 1778-1787 State Papers of Vermont Series, Vol. VIII, pp. 248-50. In the same volume are similar petitions from Manchester (pp. 244-250), Pawlet (pp. 232-33), Castleton (pp. 262-63), 'the Inhabitants of the County of Rutland" (pp 279-81), Wallingford (pp. 138-40), Danby (pp. 225-26), Tinnmouth (pp. 216-218), and Rutland (189-90).

<sup>17</sup> Pittsford petition, op cit.

<sup>18</sup> Governor and Council, Vol III, pp 366-68; language drawn from the *Vermont Gazette*, November 13, 1786 and the *Vermont Journal*, November 20, 1786.

<sup>19</sup> For example, when Eben Judd visited Chittenden, he asked "What shall we do with the settlers now on pitches in the towns [of the Upper Coos]?" where Judd was surveying for the proprietors. Gov. Chittenden replied, "...I will take the part of the poor settlers rather than have them interrupted. You must give them more than granted, if you intend to have them peaceable." Judd, "Journal," entry for June 4, 1787.

<sup>20</sup> As quoted in Michael Bellesiles, "Republican Exiles: Shays' Rebellion and the Decline of Revolutionary Republicanism." (unpublished paper). I want to thank Dr. Bellesiles for sharing this paper with me and for his patience in answering my questions about mob actions and Revolutionary republicanism.

<sup>21</sup> For a description of the various Tender Acts, see Governor and Council, Vol. III, pp. 7, 25, 112, 116, 136, 140-41, 364-65, 375, and 383. Smallwood?

<sup>22</sup> For a description of the various Betterment Acts see, Governor and Council, Vol. III, pp. 341-356.

23. Smallwood, Chittenden, pp. 146-64; Austin, "Emergence of Rival leadership," pp. 140-54. Austin provides two Chipman quotes that give a sense of the gulf between the perspectives of the new lawyer faction and the old revolutionary leadership. Chipman, upon his arrival in Vermont, wrote a friend, "I shall indeed be rara avis in terra, for there is not an attorney in the state. Think, Fitch, what a figure I shall make, when I become the oracle of law to the state of Vermont." A few months later he outlined his political plans and his impatience with having to build a career: "Ha ha ha! I cannot but laugh when I think what a flash we shall make, when we come to become members of Congress. And then again I am vexed when I think how many steps there are by which we must mount to that pinnacle of happiness. Let's see: first attorney, then a selectman, a huffing justice, a deputy, an assistant, a member of Congress. Is that not a little vexing? However, we must make the best of it."

<sup>24</sup> Gillies and Sanford, Council of Censors, especially pp.58-73.

<sup>25</sup> Governor and Council, Vol III, pp. 348-49.

<sup>26</sup> Daniel Chipman, The Life of Hon. Nathaniel Chipman(Boston, 1846). p. 62.

<sup>27</sup> Governor and Council. Vol. III, p. 365. The language is from the preamble of the resolution calling for a referendum on the tender act and other measures; the referendum was proposed by Chipman to defuse

---

legislative debate and allow time to orchestrate an effort to defeat the measures.

<sup>28</sup> Austin, "Emergence of Rival Leadership," pp 147-48. Chipman, in turn, offered a treatise on the application of British common law to the American republics. See Chipman, Life of Chipman, pp. 221-34.

<sup>29</sup> Michael Kammen, People of Paradox: An Inquiry Concerning the Origins of American Civilization (New York: Oxford University Press, 1980), pp. 161-65.

<sup>30</sup> Jonathan Harr, A Civil Action (New York: Vintage Books, 1996). Our ambivalence, and battles, over the legal profession were the focus of two reports by William Glaberson in the *New York Times*, "When the Verdict is a Fantasy," *New York Times*, Week in Review, p. 1, June 6, 1999 and "Some Plaintiffs Losing Out in Texas War on Lawsuits," *New York Times*, p. 1, June 7, 1999.

<sup>31</sup> Linda Kerber, Women of the Republic: Intellect and Ideology in Revolutionary America (Chapel Hill: University of North Carolina Press, 1980), p. xi. Kerber poses several questions that deserve study in Vermont. To cite one, what were the rights of women married to Tories whose land was seized? Could women retain possession of their dower one-third? What were her rights if she was loyal to Vermont but her husband was a Yorker?